IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1521 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMBHAI N SANGA - Petitioner(s)

Versus

PRINCIPAL CHIEF CONSERVATOR OF FOREST & 2 - Respondent(s)

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Appearance :

MR AR MAJMUDAR for Petitioner(s) : 1,

MS ARCHANA RAVAL AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 18/11/2005

ORAL JUDGMENT

1. This matter was called out before the learned Single Judge of this Court on 19/10/2005 and the following order came to be passed :-

> "This matter was listed before this Court on 9.9.2005, 26.9.2005 and 18.10.2005 for final hearing. On two occasions learned Counsel for the petitioner had filed sick notes. Today Ms Vashi appeared in the matter and states that the affidavit in reply is not in the file and therefore requests for time. As a last chance, S.O. to 27th October, 2005."

2. Toady, when the matter is called out, learned advocate appearing on behalf of the petitioner is absent and hence this court has no other alternative but to decide and dispose of the present petition on merits in absence of the learned advocate appearing on behalf of the petitioner, as the petition is of 1991.

3. In this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or directions quashing and setting aside the Condition Nos.6, 7, 8(5) as mentioned in the communication at Annexure-D to the petition, by which, while granting the Transit Pass, certain procedure was required to be followed.

4. Affidavit in reply is filed on behalf of the respondents and it is submitted that the impugned communication and the conditions which are imposed is administrative in nature and no rights of the petitioner is violated. It is also further submitted that issuance of transit pass is not formality but the authority is also required to see that the transit pass may not be misused and for that purpose, the procedure is required to be fulfilled. It is also further submitted that under sec.41(2)(b) of the Indian

Forest Act, the authority has power to issue transit pass on certain conditions and the person who obtains the transit pass is required to fulfill all the conditions of transit pass. It is also further submitted that under Rule 66 of the Bombay Forest Rules, no forest produce shall be moved without transit pass issued by the Forest Officer and Rule 67 empowers the officer, as mentioned in it, to issue transit pass. It is also further submitted in the affidavit in reply that there are many forest offences with respect to the transit pass of Charocoal in the Bhavnagar Forest Division and the list is produced at Annexure-A to the affidavit in reply. It is also further submitted that the petitioner has also committed forest offence with regard to the transit pass with respect to the Charcoal on 10.2.1991. It is also further submitted that the administrative instructions and the conditions are must while granting the transit pass in the larger interest of the State and to see that the

transit pass is not misused and the forest offences are not committed.

5. Considering the affidavit in reply and it appears that no right of the petitioner is being violated and the condition which is imposed while issuing the transit pass is with a view to see that the transit pass for transport for transport forest good is not misused and it cannot be said that any the impugned condition as mentioned in Annexure-D is in any way illegal or arbitrary.

6. In view of the above, there is no substance in the petition and the same is required to be dismissed and is accordingly dismissed. Rule is discharged. Interim relief stands vacated.

(M.R. SHAH, J.)

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